

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MILEA IXTA,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

8:21-CR-131

ORDER

Petitioner Milea Ixta filed a Motion to Vacate, Set Aside, or Correct Sentence under [28 U.S.C. § 2255](#). While performing its initial review of the Motion pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, the Court observed certain irregularities in Ixta's Petition that caused it to seriously question whether her Petition had been timely filed. Accordingly, the Court ordered the Government to file a brief addressing whether the Motion was time-barred under 28 U.S.C. § 2255(f), and also permitted Ixta the opportunity to submit a response within 15 days from her receipt of the Government's brief. [Filing 78](#). The Government timely complied with that Order by submitting a brief along with an index of supporting evidentiary materials. [Filing 81](#); [Filing 82](#). Then, on April 15, 2024, this Court received a filing from Ixta captioned, "Motion for Enlargement of Time to File Reply Brief to Respondent Motion." [Filing 87 at 1](#). In this Motion, Ixta requests "a 28-day Enlargement of Time in which to file a Reply" to the Government's Response. [Filing 87 at 1](#). The Court will grant Ixta additional time to file a reply, but notes the following.

The Court has serious reason to question Ixta's attestation in her proof of service, which states that she "swears and affirms that [she] caused to be mailed this Motion via First Class Mail through the Prison Mail System, on April 8, 2024, to all parties entitled to notice thereof." [Filing](#)

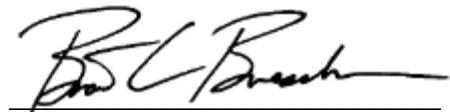
87 at 2. The Court's review of the United States Postal Service Tracking number that is associated with her filing suggests that this filing was not mailed from the Defendant's place of incarceration in Tallahassee, Florida, but from the State of Illinois. The Government addressed similar discrepancies in prior filings supposedly submitted by Ixta in its Response to the § 2255 Motion. *See generally Filing 81.* Nevertheless, the Court will grant Ixta the 28 days that have been requested beginning from the date she supposedly made this request. The Court directs Ixta to address in her reply why the United States Postal Service Tracking number associated with this filing indicates that it was not sent from her place of incarceration, but from Illinois. *See Rule 3(d) of the Rules Governing Section 2255 Proceedings in the United States District Courts* ("A paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing"). The Court also encourages the United States to submit any matters relevant to this issue by that deadline as well. Accordingly,

IT IS ORDERED:

1. Ixta's Motion for an Enlargement of Time, Filing 87, is granted;
2. Any response by Ixta must be postmarked or deposited within the prison mail system no later than May 6, 2024; and
3. To the extent the United States intends to submit any briefing or evidence related to whether Filing 87 complies with the Prison Mailbox Rule, it shall do so no later than May 6, 2024.

Dated this 18th day of April, 2024.

BY THE COURT:



Brian C. Buescher
United States District Judge